

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04CV11023 RCL

LEON ROBINSON,
Plaintiff

v.

THOMAS MENINO, PAUL F.
EVANS, JAMES WYSE,
MICHAEL PRIMM, JOHN A.
MARTEL, WAYNE ROCK,
GARRETT MITCHELL,
CHARLES HARDY, AMERICAN
BROADCASTING CO., INC.,
HEARST-ARGYLE STATION
INC., WCVB TV (Channel 5,
Boston) DENNIS MCCARTHY
AND JOHN DOE I,
Defendants

**DEFENDANTS JAMES WYSE, MICHAEL PRIMM, JOHN A. MARTEL, WAYNE
ROCK, GARRETT MITCHELL, AND CHARLES HARDY'S MOTION TO DISMISS
PLAINTIFF'S COMPLAINT**

The Plaintiff, Leon Robinson ("Plaintiff"), brings several causes of action against the Defendants, employees of the Boston Police Department, Sergeant Detective James Wyse, Detective Michael Primm, Detective John Martel, Detective Wayne Rock, Detective Garrett Mitchell and Officer James Hardy (collectively, "Defendants"), and several others, alleging against each defendant a violation of 42 U.S.C. § 1983 ("Count I"), a violation of the Massachusetts Civil Rights Act ("MCRA") ("Count II"), a claim of trespass ("Count III"), and a claim of intentional infliction of emotional distress ("Count IV") stemming from an incident on February 21-22, 2001. Pursuant to Fed. Civ. R. 12(b)(6), the Defendants move to dismiss all counts of the Plaintiff's Complaint.

In support of their motion, the Defendants state the following: (1) the Plaintiff's claims are barred by the doctrine of collateral estoppel; (2) the Plaintiff's claims are barred under Heck v. Humphrey, 512 U.S. 477, 487 (1994); and (3) the Plaintiff's claims are not actionable against the Defendants in either their official or personal capacity. In further support of this motion, the Defendants submit the attached Memorandum of Law. *Wherefore*, the Defendants respectfully request that this Honorable Court dismiss Plaintiff's complaint, with prejudice.

DEFENDANTS REQUEST AN ORAL ARGUMENT FOR THIS MOTION

Respectfully submitted,
DEFENDANTS, JAMES WYSE, MICHAEL
PRIMM, JOHN A. MARTEL, WAYNE ROCK,
GARRETT MITCHELL, AND CHARLES
HARDY,
Merita A. Hopkins
Corporation Counsel

By their attorney:

/s/ Helen G. Litsas
Helen G. Litsas, Esq., BBO#644848
Assistant Corporation Counsel
City of Boston Law Department
Room 615, City Hall
Boston, MA 02201
(617) 635-4023 (Litsas)

CERTIFICATE OF SERVICE

I, Helen G. Litsas, hereby certify that I served Defendants Martel, Wyse, Mitchell, Hardy, Primm and Rock's Motion to Dismiss upon the Plaintiff by mailing a copy, postage prepaid, and to all other parties, via electronic filing.

8/12/05
Date

/s/ Helen G. Litsas
Helen G. Litsas